

**Luce and Son, Inc. and Teamsters, Chauffeurs, Warehousemen & Helpers and Professional, Clerical, Public and Miscellaneous Employees Local Union No. 533, International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 32-RC-3674

May 31, 1994

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

BY MEMBERS STEPHENS, DEVANEY, AND COHEN

The National Labor Relations Board has considered determinative challenges in an election held on June 4, 1993, and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows seven for and four against the Petitioner, with four challenged ballots.<sup>1</sup>

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the record in light of the exceptions and briefs, has adopted the Regional Director's findings and recommendations to the extent consistent with this decision, and finds that a certification of representative should be issued.

The Petitioner challenged the ballot of Velma Woodbridge because of her close family ties with the Employer's owner and managers. The Petitioner argued that Woodbridge's interests were aligned with management and that therefore she should not be included in the bargaining unit. The Regional Director overruled the Petitioner's challenge and found that Woodbridge shared a community of interest with the unit of clerical employees.<sup>2</sup>

The facts are undisputed. Woodbridge, who owns a relatively small number of shares in the Employer, is the sister of its principal owner, Cherry Luce. Woodbridge is a cash control clerk who also handles the mail and matters such as workers' compensation and employment verification. She earns \$13 an hour, which is 50 cents higher than the hourly rate of anyone else in the unit. Although Woodbridge works part-time, she receives full-time benefits.<sup>3</sup> Woodbridge re-

ceives a \$200-a-month car allowance that no other employee receives. She also gets free gas once a month. This latter privilege is occasionally shared by one or two employees on a sporadic basis as their work requirements dictate. Three of Woodbridge's nephews are managers of the Employer's business. Woodbridge is supervised by one of her nephews, Gary Hicks, who also supervises the clerical unit. Woodbridge functions as Cherry Luce's personal secretary.<sup>4</sup> She keeps Luce's personal books and records, to which no other employees have access. She alone handles phone calls for Luce in Luce's absence. Woodbridge also resides in a house which is owned by Luce and which is next door to Luce's home. Woodbridge pays rent to Luce. On one occasion when Luce was sick, Woodbridge cared for her and did not report to work for a week. Woodbridge was paid for this week and was charged neither vacation nor sick time.

The Regional Director concluded that Woodbridge did not receive special benefits because of her relationship with the Employer's owner. We disagree. We find that Velma Woodbridge's family relationship with the Employer's owner and managers and supervisors has entitled her to special benefits. Of particular note are Woodbridge's receipt of a \$200-a-month car allowance and no loss of pay or leave when she cares for her sister, Owner Cherry Luce, when Luce is sick. Such substantial privileges are shared by no other employee in the clerical unit. In these circumstances, Woodbridge clearly does not share the common interests of her fellow employees. Her interests are aligned with management and she should not be included in the bargaining unit. *NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 498 (1985).<sup>5</sup> Accordingly, we sustain the Petitioner's

<sup>4</sup>Luce spends 7 months of the year in Hawaii and resides at the location of her business for limited periods.

<sup>5</sup>The Regional Director relied on *Blue Star Ready-Mix Concrete Corp.*, 305 NLRB 429 (1991), where the Board found that challenged voter Jason Vinson neither received special benefits nor shared interests that aligned him with management despite Vinson's family relationship with various company officials. We find *Blue Star* distinguishable. Vinson received a 50-cent higher starting salary than other new employees, but the new employees received increases ahead of Vinson. By contrast, Woodbridge receives a \$200-a-month car allowance which no other employee receives. Further, Vinson's caring for his elderly grandfather, one of the owners of the company, was in no way job related. By contrast, Woodbridge has cared for the sick Luce without loss of pay or deduction from her accrued sick leave or vacation time.

Member Devaney concurs in the Board's decision and notes also that Velma Woodbridge's family relationships, like Jason Vinson's relationships in *Blue Star*, could easily create a situation in which Woodbridge's presence at union meetings "could tend to inhibit free expression of views and threaten the confidentiality of union attitudes and voting," and that her inclusion in the unit could well be "viewed with suspicion by other employees." *Blue Star*, supra at 431, quoting *Action Automotive*, supra at 496. Member Devaney notes that not only is Woodbridge the sister of the Employer's owner, but she is also the aunt of her supervisor, who supervises the

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<sup>1</sup>The challenged ballots were those of Sheryl Griener, Velma Woodbridge, Scott Eddington, and Chris Hoffman. The Regional Director, among other things, sustained the challenge to Griener's ballot. In the absence of exceptions, we adopt the Regional Director's finding regarding Griener pro forma.

<sup>2</sup>The unit description is:

All full-time and regular part-time office clerical employees employed by the Employer at its 2300 N. Valley Road, Reno, Nevada location, excluding all confidential employees, outside sales employees, professional employees, guards and supervisors as defined in the Act.

<sup>3</sup>Her seniority allows her to take vacation time at Christmas, a privilege not enjoyed by any other employee.

challenge to Velma Woodbridge's ballot and certify the Petitioner.<sup>6</sup>

#### CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for Teamsters, Chauffeurs, Warehouse-

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bargaining unit, and the aunt of at least two other managers. Thus, for these additional reasons, and in accord with his partial dissent in *Blue Star*, supra, Member Devaney finds that Woodbridge does not share a community of interest with unit employees and that the challenge to her ballot should be sustained.

<sup>6</sup>The ballots of Scott Eddington and Chris Hoffman are no longer determinative and thus need not be opened and counted.

men & Helpers and Professional, Clerical, Public and Miscellaneous Employees Local Union No. 533, International Brotherhood of Teamsters, AFL-CIO, and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time office clerical employees employed by the Employer at its 2399 N. Valley Road, Reno, Nevada Location, excluding all confidential employees, outside sales employees, professional employees, guards and supervisors as defined in the Act.